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FRISHAUF, HOLTZ, GOODMAN &
CHICK, PC
220 Fifth Avenue
16TH Floor
NEW YORK NY 10001-7708

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In re Patent No. 7,384,446	:	DECISION ON REQUEST
Unami et al.	:	FOR RECONSIDERATION OF
Issue Date: June 10, 2008	:	PATENT TERM ADJUSTMENT
Application No. 10/560,080	:	and
Filed: December 8, 2005	:	NOTICE OF INTENT TO ISSUE
Atty Docket No. 05850/HG	:	CERTIFICATE OF CORRECTION

This is a decision on the APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN AN ISSUED PATENT (37 CFR §1.705(d)), filed June 30, 2008. Patentee requests that the patent term adjustment on the issued patent be corrected from seventy-one (71) days to one hundred ninety (190) days.

The request for reconsideration of the patent term adjustment indicated in the patent is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **one hundred ninety (190)** days.

On June 10, 2008, the application matured into U.S. Patent No. 7,384,446, with a revised patent term adjustment of 71 days. On June 30, 2008, patentee timely submitted this request for reconsideration of patent term adjustment (with required fee), requesting that the Patent Term Adjustment be corrected to 190 days. Patentee disputes the reduction of 119 days associated with a paper filed after the mailing of the notice of allowance.

A review of the application history reveals that the paper filed February 13, 2008 was entered as an amendment, but was a COMMENT ON THE NOTICE OF ALLOWANCE. Thus, the entry of a period of reduction pursuant to 37 CFR 1.704(c)(10)¹ is not warranted. As stated in MPEP 2732:

Certain papers filed after allowance are not considered to be a failure to engage in reasonable efforts to conclude processing or examination of an application. See *Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed*, 1247 Off. Gaz. Pat. Office 111 (June 26, 2001). The submission of the following papers after a "Notice of Allowance" is not considered a failure to engage in reasonable efforts to conclude processing or examination of an application: (1) Fee(s) Transmittal (PTOL-85B); (2) Power of Attorney; (3) Power to Inspect; (4) Change of Address; (5) Change of Status (small/not small entity status); (6) a response to the examiner's reasons for allowance or a request to correct an error or omission in the "Notice of Allowance" or "Notice of Allowability;" and (7) letters related to government interests (e.g., those between NASA and the Office).

In view thereof, the patent should have issued with a patent term adjustment of one hundred ninety (190) days.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-

¹ 1.704(c)(10) Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:

(i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper; or (ii) Four months.

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identified patent is extended or adjusted by **ONE HUNDRED NINETY (190) days.**

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Attachment: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,384,446 B2
DATED : June 10, 2008
INVENTOR(S) : Unami et al.

DRAFT

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 71 days

Delete the phrase "by 71 days" and insert - by 190 days--